



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Aging and Disability Services Administration

Permanent Rule Only

Effective date of rule:

Permanent Rules

☒ 31 days after filing.

☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes

☒ No

If Yes, explain:

Purpose: The purpose of amending these rules is to consider making editorial and clarifying changes, and to make it consistent with current laws and standards. Remove incorrect statutory authority reference 42 C.F.R. 489.52 in the footnote in all sections of the chapter 388-97 WAC. The anticipated effects are to make the rule clearer, easier to read, understand and apply.

The department is proposing the following new sections: WAC 388-97-0725 Notice to others of preliminary findings; WAC 388-97-4166 Liability insurance required; WAC 388-97-4167 Liability insurance required-Commercial General Liability Insurance or Businesses Liability Insurance coverage; WAC 388-97-4168 Liability insurance required-Professional Liability Insurance coverage; WAC 388-97-4425 Notice-Service complete; WAC 388-97-4430 Notice-Proof of service.

Citation of existing rules affected by this order:

Repealed: WAC 388-97-1420; WAC 388-97-3820

Amended: WAC 388-97-0001; WAC 388-97-0100; WAC 388-97-0280; WAC 388-97-0580; WAC 388-97-0720; WAC 388-97-1400; WAC 388-97-1440; WAC 388-97-1460; WAC 388-97-1480; WAC 388-97-1500; WAC 388-97-1520; WAC 388-97-1540; WAC 388-97-1560; WAC 388-97-1580; WAC 388-97-1600; WAC 388-97-1800; WAC 388-97-1820; WAC 388-97-1900; WAC 388-97-2060; WAC 388-97-2280; WAC 388-97-4200; WAC 388-97-4220; WAC 388-97-4320; WAC 388-97-4340; WAC 388-97-4440

Suspended: None

Statutory authority for adoption: Chapters 18.51 and 74.42 RCW

Other authority: None

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 09-20-062 on October 2, 2009 (date).

Describe any changes other than editing from proposed to adopted version: See attachment

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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Date adopted:

December 29, 2009

NAME (TYPE OR PRINT)

Susan N. Dreyfus

SIGNATURE

TITLE

Secretary, Department of Social and Health Services

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 29, 2009

TIME: 12:56 PM

WSR 10-02-021

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>6</u>	Amended	<u>25</u>	Repealed	<u>2</u>
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	<u>6</u>	Amended	<u>25</u>	Repealed	<u>2</u>

Rule Making Order CR-103
Chapter 388-97 WAC Nursing Homes
ATTACHMENT

Describe any changes other than editing from proposed to adopted version:

The changes, other than editing changes, follow: Changes are shown with new language underlined and deleted text lined through.

WAC 388-97-0001 Definitions.

"Nursing facility (NF)" or "medicaid-certified nursing facility" means a nursing home, or any portion of a long-term care wing or unit of a hospital, veterans' home, or residential habilitation center, that ~~has been~~ is certified to provide nursing services to medicaid recipients under Section 1919(a) of the federal Social Security Act.

WAC 388-97-1440 Tuberculosis--No-skin testing. The nursing home is not required to have a person tested for tuberculosis if the person has:

- (1) A documented history of a previous positive skin test; results ~~with ten or more millimeters induration;~~
- (2) A documented history of a previous positive blood test; or
- (3) Documented evidence of:
 - (a) Adequate therapy for active disease; or
 - (b) Completion of treatment for latent tuberculosis infection preventive therapy.

WAC 388-97-1460 Tuberculosis-- One step testing. The nursing home is only required to have a person take a one ~~step skin or blood~~ test if the person has any of the following:

- (1) A documented history of a negative result from a previous two step testing done no more than one to three weeks apart; or
- (2) A documented negative result from one step skin or blood testing in the previous twelve months.

WAC 388-97-1480 Tuberculosis--Two step skin testing. Unless the person meets the requirement for having no skin testing or only ~~a one step skin~~ test, the nursing home, choosing to do skin testing, must ensure that each person has the following two-step skin testing:

- (1) An initial skin test within three days of employment; and
- (2) A second test done one to three weeks after the first test.; ~~except~~
- ~~—(3) A two-step is not required for the IGRA blood test which is only a one-step test.~~

WAC 388-97-1800 Criminal history disclosure and background inquiries. (1) As used in this section, the term "nursing home" includes a nursing facility and a skilled nursing facility.

- (2) The nursing home must:
 - (a) Have a valid criminal history background check for any individual employed, directly or by contract, or any individual accepted as a volunteer or student who may have unsupervised access to any resident; and
 - (b) Repeat the check every two years.
- (3) A nursing home licensed under chapter 18.51 RCW must make a background inquiry request to one of the following:
 - (a) The Washington state patrol;
 - (b) The department;
 - (c) The most recent employer licensed under chapters 18.51, 18.20, and 70.128 RCW provided termination of that employment was within twelve months of the current employment application and provided the inquiry was completed by the department or the Washington state patrol within the two years of the current date of application; or

(d) A nurse pool agency licensed under chapter 18.52C RCW, or hereafter renamed, provided the background inquiry was completed by the Washington state patrol within two years before the current date of employment in the nursing home.

(4) A nursing home may not rely on a criminal background inquiry from a former employer, including a nursing pool, if the nursing home knows or has reason to know that the individual applying for the job has, or may have, a disqualifying conviction or finding.

(5) Nursing homes must:

(a) Request a background inquiry of any individual employed, directly or by agreement or contract, or accepted as a volunteer or student; and

(b) Notify appropriate licensing or certification agency of any individual resigning or terminated as a result of a criminal conviction or a civil adjudication proceeding. ~~as defined in RCW 43.43.830.~~

(6) Before a nursing home employs any individual, directly or by contract, or accepts any individual as a volunteer or student, a nursing home must:

(a) Inform the individual that the nursing home must make a background inquiry and require the individual to sign a disclosure statement, under penalty or perjury and in accordance with RCW 43.43.834;

(b) Inform the individual that he or she may request a copy of the results of the completed background inquiry described in this section; and

(c) Require the individual to sign a statement authorizing the nursing home, the department, and the Washington state patrol to make a background inquiry; and

(d) Verbally inform the individual of the background inquiry results within seventy-two hours of receipt.

(7) The nursing home must establish procedures ensuring that:

(a) The individual is verbally informed of the background inquiry results within seventy-two hours of receipt;

(b) All disclosure statements and background inquiry responses and all copies are maintained in a confidential and secure manner;

(c) Disclosure statements and background inquiry responses are used for employment purposes only;

(d) Disclosure statements and background inquiry responses are not disclosed to any individual except:

(i) The individual about whom the nursing home made the disclosure or background inquiry;

(ii) Authorized state employees including the department's licensure and certification staff, resident protection program staff and background inquiry unit staff;

(iii) Authorized federal employees including those from the Department of Health and Human Services, Centers for Medicare and Medicaid Services;

(iv) The Washington state patrol auditor; and

(v) Potential employers licensed under chapters 18.51, 18.20, and 70.128 RCW who are making a request as provided for under subsection (1) of this section.

(e) A record of findings be retained by the nursing home for twelve months beyond the date of employment termination.

(8) The nursing home must not employ individuals who are disqualified under the requirements of WAC 388-97-1820.

WAC 388-97-1820 Disqualification from nursing home employment. (1) The nursing home must not employ directly or by contract, or accept as a volunteer or student, any individual:

(a) Who has been found to have abused, neglected, exploited or abandoned a minor or vulnerable adult by a court of law, by a disciplining authority, including the state department of health; ~~or by the department's resident protection program.~~

(b) ~~Against whom~~ With a finding of abuse or neglect, exploitation, misappropriation of property or abandonment has been entered on any department or state registry of a child that is:

(i) Listed on the department's background check central unit (BCCU) report; or

(ii) Disclosed by the individual, except for findings made before December, 1998; or

(c) ~~Who~~ With a finding of ~~as been subject to an order of protection under 74.34 RCW for abandonment, abuse, neglect, or financial exploitation of a vulnerable adult, or misappropriation of resident property, that is:~~

(i) Listed on any registry, including the department registry;

(ii) Listed on the department's background check central unit (BCCU) report; or

(iii) Disclosed by the individual, except for Adult Protective Services findings made before October, 2003.

(2) Except as provided in this section, the nursing home must not employ directly or by contract, or accept as a volunteer or student, any individual who may have unsupervised access to residents if the individual:

(a) Has been convicted of a "crime against children and other persons" as defined in RCW 43.43.830, unless the individual has been convicted of one of the two crimes listed below and the required number of years has passed between the most recent conviction and the date of the application for employment:

(i) Simple assault, assault in the fourth degree, or the same offense as it may hereafter be renamed, and three or more years have passed; or

(ii) Prostitution, or the same offense as it may hereafter be renamed, and three or more years have passed.

(b) Has been convicted of crimes relating to financial exploitation as defined in RCW 43.43.830, unless the individual has been convicted of one of the three crimes listed below and the required number of years has passed between the most recent conviction and the date of the application for employment:

(i) Theft in the second degree, or the same offense as it may hereafter be renamed, and five or more years have passed;

(ii) Theft in the third degree, or the same offense as it may hereafter be renamed, and three or more years have passed; or

(iii) Forgery, or the same offense as forgery may hereafter be renamed, and five or more years have passed.

(c) Has been convicted of:

(i) Violation of the imitation controlled substances act (VICSA);

(ii) Violation of the uniform controlled substances act (VUCSA);

(iii) Violation of the uniform legend drug act (VULDA); or

(iv) Violation of the uniform precursor drug act (VUPDA). ~~or~~

(d) Has been convicted of ~~S~~ending or bringing into the state depictions of a minor engaged in sexually explicit conduct.

(e) Has been convicted of criminal mistreatment.

~~(f)~~ Has been convicted in another state of a crime that is equivalent to a crime listed in subsection (2)(a) through ~~(d)~~ of this section.

(3) The term "**vulnerable adult**" is defined in RCW 74.34.020; the term "**unsupervised access**" is defined in RCW 43.43.830.

(4) In addition to chapters 18.51 and 74.42 RCW, these rules are authorized by RCW 43.20A.710, 43.43.830 through 43.43.842 and 74.39A.050(8).

WAC 388-97-1900 Dialysis services ~~provided in nursing home.~~

(1) The nursing home must ensure that appropriate care, treatment, and services are provided to each nursing home resident who receives dialysis in the nursing home.

(2) For the purposes of this section the following definitions apply:

a. "Dialysis" means the process of separating crystalloids and colloids in solution by means of the crystalloids and colloids unequal diffusion through a natural or artificial semipermeable membrane. This includes both peritoneal and hemodialysis.

b. A "kidney center" means a facility as defined and certified by the federal government to provide end stage renal (ESRD) services.

~~(2)~~ (3) The nursing home must not administer dialysis for a resident with acute renal failure in the nursing home.

(34) A nursing home may only administer maintenance dialysis in the nursing home after:

- (a) ~~After~~ Other options have been analyzed and rejected, based on the resident's best interest; and
- (b) ~~Following a joint~~ A decision is made jointly by a team of individuals representing including representatives of the kidney center and the nursing home, the resident, and the resident's nephrologist. A "kidney center" means a facility as defined and certified by the federal government to provide end stage renal (ESRD) services.

(45) The nursing home must ensure that a current written agreement is in effect with each kidney center responsible for the management and care of each nursing home resident undergoing dialysis. The agreement must include all aspects of how the resident's care is to be managed including:

- (a) Medical and nonmedical emergencies;
- (b) Development and implementation of the resident's care plan related to dialysis issues;
- (c) Interchange of information useful/necessary for the care of the resident; and
- (d) The responsibility for waste handling, sterilization, and disinfection of equipment for dialysis done in the nursing home.

(6) The nursing home must ensure implementation of policies and procedures developed with the kidney center that:

- (a) Meet current standards of practice;
- (b) Addresses both dialysis provided by or in the nursing home as well as dialysis provided by the kidney center; and
- (c) Addresses all of the nursing home responsibilities related to a resident on dialysis.

~~((6)))~~ Only a registered nurse from the kidney center or a dialysis helper may administer dialysis in the nursing home.

~~((a))~~ A dialysis helper may be a registered nurse; ((and)) or

~~((b))~~ ((When)) If a dialysis helper is not a registered nurse, the nursing home must have a registered nurse who has completed an in-service class approved by the kidney center, on the premises during dialysis.

~~((((7)))~~ (5) A physician, designated or approved by ((the)) a kidney center, must be on call at all times dialysis is being administered in the nursing home.

~~((((8)))~~ (6) The resident's attending physician and the kidney center must provide, or direct and supervise, the continuing medical management and surveillance of the care of each nursing home resident receiving dialysis.

~~((((9)))~~ (7) The nursing home must:

~~((a))~~ Ensure the kidney center develops a dialysis treatment plan; ((and))

~~((b))~~ Coordinate and update changes to the dialysis treatment plan with the kidney center; and

~~((c))~~ Incorporate this treatment plan into the resident's comprehensive plan of care and include specific medical orders for medications, treatment, and diet.

~~((((10)))~~ (8) The dialysis room in the nursing home must be in compliance with federal standards established for ESRD facilities. This includes:

~~((a))~~ Storage space available for equipment and supplies;

~~((b))~~ A telephone at the bedside of each dialysis resident; and

~~((c))~~ A mechanical means of summoning additional staff to the dialysis area in the event of a dialysis emergency

NEW SECTION

~~WAC 388-97-1910 Dialysis services provided outside of nursing home.~~ (1) If dialysis services are provided outside the nursing home, the nursing home must coordinate with the kidney center to ensure the resident's comprehensive plan of care is monitored and changed as needed.

~~(2) The nursing home must ensure that a current written agreement is in effect with the kidney center responsible for the management and care of each nursing home resident undergoing dialysis.~~

~~(3) The nursing home must ensure that the agreement:~~

~~(a) Delineates the nursing home's functions, responsibilities and services and that the kidney center must assist the nursing home in ensuring appropriate care, treatment, and services related to dialysis;~~

~~(b) Delineates the functions, responsibilities, and services of the kidney center including but not limited to:~~

~~(i) The provision of clinical and chemical laboratory services;~~

~~(ii) The services of a qualified dietitian;~~

~~(iii) Social services;~~

~~(i) Preventative maintenance and emergency servicing of dialysis and water purification equipment;~~

~~(ii) The certification and continuing education of dialysis helpers and periodic review and updating of dialysis helpers' competencies;~~

~~(vii) An in-hospital dialysis program for the care and treatment of a dialysis resident with a complication or acute condition necessitating hospital care; and~~

~~(vii) A continuing in-service education program for nursing home staff working with a dialysis resident.~~

~~(iii) A program for periodic, on-site review of the nursing home's dialysis rooms;~~

~~(iv) Selection, procurement, and installation of dialysis equipment;~~

~~(v) Selection and procurement of dialysis supplies;~~

~~(vi) Proper storage of dialysis supplies; and~~

~~(vii) Specification, procurement, and installation of the purification process for treatment of water used as a diluent in the dialyzing fluid.~~

~~(c) Provides that if a problem occurs, the kidney center must contact and inform the nursing home medical director.~~

NEW SECTION

~~WAC 388-97-4165 Application--Liability insurance required.~~ (1) The applicant must submit insurer executed evidence of liability insurance coverage with the application.

~~(2) The coverage and evidence of coverage must comply with the requirements of WAC 388-97-4167 and 388-97-4168.~~

NEW SECTION

WAC 388-97-4166 Liability insurance required--Ongoing. The nursing home must:

(1) Obtain liability insurance upon licensure and maintain the insurance as required in WAC 388-97-4167 and 388-97-4168; and

(2) Have evidence of liability insurance coverage available if requested by the department.

WAC 388-97-4200 Department review of initial nursing home license applications. (1) All initial nursing home license applications must be reviewed by the department under this chapter.

(2) The department will not begin review of an incomplete license application.

(3) The proposed licensee must respond to any department request for additional information within five working days.

(4) When the application is determined to be complete, the department will consider the proposed licensee or any partner, officer, director, managerial employee, or owner of five percent or more of the proposed licensee, separately and jointly, in its review. The department will review:

(a) The information contained in the application;

- (b) Survey and complaint investigation citations in every facility each individual and entity named in the application has been affiliated with during the past ten years;
 - (c) Compliance history;
 - (d) Financial assessments;
 - (e) Actions against the proposed licensee (i.e., revocation, suspension, refusal to renew, etc.);
 - (f) All criminal convictions, and relevant civil or administrative actions or findings including, but not limited to, findings, including professional disciplinary actions, and findings of abuse, neglect, exploitation, abandonment, or domestic violence resulting from a civil adjudication proceeding, ~~as defined in RCW 43.43.830~~; and
 - (g) Other relevant information.
- (5) The department will notify the proposed licensee of the results of the review.

WAC 388-97-4220 Reasons for denial, suspension, modification, revocation of, or refusal to renew a nursing home license. (1) The department may deny, suspend, modify, revoke, or refuse to renew a nursing home license when the department finds the proposed or current licensee, or any partner, officer, director, managing employee, owner of five percent or more of the proposed or current licensee of the nursing home, owner of five percent or more of the assets of the nursing home, proposed or current administrator, or employee or individual providing nursing home care or services has:

- (a) Failed or refused to comply with the:
 - (i) Requirements established by chapters 18.51, 74.42, or 74.46 RCW and regulations adopted under these chapters; or
 - (ii) Medicaid requirements of Title XIX of the Social Security Act and medicaid regulations, including 42 CFR, Part 483.
- (b) A history of significant noncompliance with federal or state regulations in providing nursing home care;
- (c) No credit history or a poor credit history;
- (d) Engaged in the illegal use of drugs or the excessive use of alcohol or been convicted of "crimes relating to drugs" as defined in RCW 43.43.830 which are not listed in subsection (3)(c);
- (e) Unlawfully operated a nursing home, or long term care facility as defined in RCW 70.129.010, without a license or under a revoked or suspended license;
- (f) Previously held a license to operate a hospital or any facility for the care of children or vulnerable adults, and that license has been revoked, or suspended, or the licensee did not seek renewal of the license following written notification of the licensing agency's initiation of revocation or suspension of the license;
- (g) Obtained or attempted to obtain a license by fraudulent means or misrepresentation;
- (h) Permitted, aided, or abetted the commission of any illegal act on the nursing home premises;
- (i) Been convicted of a felony or other crime that would not be automatically disqualifying under RCW 74.39A.050(8) or this chapter, if the conviction reasonably relates to the competency of the individual to own or operate a nursing home;
- (j) Had a sanction, corrective, or remedial action taken by federal, state, county or municipal officials or safety officials related to the care or treatment of children or vulnerable adults;
- (k) Failed to:
 - (i) Provide any authorization, documentation, or information the department requires in order to verify information contained in the application;
 - (ii) Meet financial obligations as the obligations fall due in the normal course of business;
 - (iii) Verify additional information the department determines relevant to the application;
 - (iv) Report abandonment, abuse, neglect or financial exploitation in violation of chapter 74.34 RCW; or in the case of a skilled nursing facility or nursing facilities, failure to report as required by 42 C.F.R. 483.13; or
 - (v) Pay a civil fine the department assesses under this chapter within ten days after assessment becomes final.
- (l) Been certified pursuant to RCW 74.20A.320 as a person who is not in compliance with a child support order (license suspension only);

(m) Knowingly or with reason to know makes a false statement of a material fact in the application for a license or license renewal, in attached data, or in matters under department investigation;

(n) Refused to allow department representatives or agents to inspect required books, records, and files or portions of the nursing home premises;

(o) Willfully prevented, interfered with, or attempted to impede the work of authorized department representatives in the:

(i) Lawful enforcement of provisions under this chapter or chapters 18.51 or 74.42 RCW; or

(ii) Preservation of evidence of violations of provisions under this chapter or chapters 18.51 or 74.42 RCW.

(p) Retaliated against a resident or employee initiating or participating in proceedings specified under RCW 18.51.220; or

(q) Discriminated against medicaid recipients as prohibited under RCW 74.42.055.

(2) In determining whether there is a history of significant noncompliance with federal or state regulations under subsection (1)(b), the department may, at a minimum, consider:

(a) Whether the violation resulted in a significant harm or a serious and immediate threat to the health, safety, or welfare of any resident;

(b) Whether the proposed or current licensee promptly investigated the circumstances surrounding any violation and took steps to correct and prevent a recurrence of a violation;

(c) The history of surveys and complaint investigation findings and any resulting enforcement actions;

(d) Repeated failure to comply with regulations;

(e) Inability to attain compliance with cited deficiencies within a reasonable period of time; and

(f) The number of violations relative to the number of facilities the proposed or current licensee, or any partner, officer, director, managing employee, employee or individual providing nursing home care or services has been affiliated within the past ten years, or owner of five percent or more of the proposed or current licensee or of the assets of the nursing home.

(3) The department must deny, suspend, revoke, or refuse to renew a proposed or current licensee's nursing home license if the proposed or current licensee or any partner, officer, director, managing employee, owner of five percent or more of the proposed or current licensee of the nursing home or owner of five percent or more of the assets of the nursing home, proposed or current administrator, or employee or individual providing nursing home care or services has been:

(a) Convicted of a "crime against children or other persons" as defined under RCW 43.43.830(;;)) unless the individual has been convicted of one of the two crimes listed below and the required number of years has passed between the most recent conviction and the date of the application for employment:

(i) Simple assault, assault in the fourth degree, or the same offense as it may hereafter be renamed, and three or more years have passed;

(ii) Prostitution, or the same offense as it may hereafter be renamed, and three or more years have passed.

(b) Convicted of a "crime relating to financial exploitation" as defined under RCW 43.43.830(;;)) unless the individual has been convicted of one of the three crimes listed below and the required number of years has passed between the most recent conviction and the date of the application for employment:

(i) Theft in the second degree, or the same offense as it may hereafter be renamed, and five or more years have passed;

(ii) Theft in the third degree, or the same offense as it may hereafter be renamed, and three or more years have passed; or

(iii) Forgery, or the same offense as it may hereafter be renamed, and five or more years have passed.

(c) ~~Has been e~~Convicted of:

(i) Violation of the imitation controlled substances act (VICSA);

(ii) Violation of the uniform controlled substances act (VUCSA);

(iii) Violation of the uniform legend drug act (VULDA);

(iv) Violation of the uniform precursor drug act (VUPDA); or

- (d) ~~Has been c~~Convicted of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;-
- (e) Convicted of criminal mistreatment;
- (f) Found by a court in a criminal proceeding or a protection proceeding under chapter 74.34 RCW, or any comparable state or federal law, to have abandoned, abused, neglected or financially exploited a vulnerable adult;
- (fg) Found in any final decision issued by a disciplinary board to have sexually or physically abused or exploited any minor or an individual with a developmental disability or to have abused, neglected, abandoned, or financially exploited any vulnerable adult;
- (gh) Found in any dependency action to have sexually assaulted or exploited any minor or to have physically abused any minor;
- (hi) Found by a court in a domestic relations proceeding under Title 26 RCW, or any comparable state or federal law, to have sexually abused or exploited any minor or to have physically abused any minor; or
- (j) Found to have abused or neglected a child, and the finding is: (i) Listed on the department's background check central unit (BCCU) report; or (ii) Disclosed by the individual, except for findings made before December, 1998; or
- (k) Found to have abandoned, abused, neglected, or financially exploited a vulnerable adult, and the finding is:
- (i) Listed on any registry, including the department registry;
- (ii) Listed on the department's background check central unit (BCCU) report; or
- (iii) Disclosed by the individual, except for Adult Protective Services findings made before October, 2003.
- ~~Found to have abused, neglected, abandoned or financially exploited or mistreated residents or misappropriated their property, and that finding has been entered on any department's registry or list.~~

The changes were made because:
Of comments received and to make the requirements clearer.

SUMMARY OF COMMENTS RECEIVED	THE DEPARTMENT CONSIDERED ALL THE COMMENTS. THE ACTIONS TAKEN IN RESPONSE TO THE COMMENTS, OR THE REASONS NO ACTIONS WERE TAKEN, FOLLOW.
Definition of nursing facility needs to be clear to include any portion and veteran's home or residential habilitation center.	A change was made in response to this comment to clarify the definition of nursing facility.
1440 There may be situations where less than 10 mm may be considered a positive reading.	A change was made in response to this comment to return to current rule language. This will allow for other positive readings as determined by the health care professional.
1460 and 1480 Use of word step to describe one step test is confusing.	A change was made in response to this comment to take out the word step when referring to one skin test and clarifying that one test could be skin or blood test.
1800 and 4200 Statutory reference to definition of civil adjudication proceeding is not needed.	A change was made in response to this comment by deleting the statutory reference since it will be defined in this WAC chapter.
1820 and 4220 Needs clarification on when the finding is disqualifying and what is meant by	A change was made in response to this comment by clarifying that the finding is

<p>department or state registry.</p>	<p>disqualifying when listed on the registry, background check report or when disclosed by the individual. Added dates of when the findings were issued to allow for when due process was implemented. Included “convicted of criminal mistreatment” as a disqualifying crime since it is already on the Secretary’s List of Crimes and Negative Actions.</p>
<p>1900 Unclear whether rule applies to peritoneal dialysis or hemodialysis or both. Same requirements may not be appropriate for both.</p> <p>Suggest inclusion language of a current written agreement in effect which delineates the function, responsibilities, and services of both the kidney center and the NH.</p> <p>(4) does not correctly describe the role of the kidney center for peritoneal dialysis. (which is training of NH personnel. Kidney centers do not provide RNs for dialysis for peritoneal dialysis).</p> <p>(6) reflect current practice : delete supervision since the physician and the kidney center does not supervise the NH employee. Delete the word provide as it relates to peritoneal dialysis. Replace word surveillance with oversight.</p>	<p>A change was made in response to these comments. The WAC was simplified and clarified to be consistent with the federal regulations and guidelines.</p>
<p>1910 Assume this rule only applies to hemodialysis.</p> <p>Parts of subsection 3 need be deleted since not applicable for dialysis provided in kidney center and portions of former 5 in 1900 should be reviewed to see if it needs to be restored to 1900.</p>	<p>A change was made in response to these comments. This section has been deleted and requirements were clarified in WAC 1900.</p>
<p>4165 and 4166 It may be a long time before an applicant receives license and the applicant may not have enough information to get the liability insurance ahead of time.</p>	<p>A change was made in response to this comment by deleting the new section requiring the applicant to have liability insurance coverage at the time of application and instead, clarifying that the nursing home must obtain it upon licensure.</p>